

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

CONVERGEN ENERGY LLC, et al.,

Plaintiffs,

v.

CASE NO.: 1:20-CV-03746 (LJL)

STEVEN J. BROOKS, et al.,

Defendants.

DECLARATION OF RYAN M. BILLINGS

Ryan M. Billings makes the following declaration under penalty of perjury.

1. I am a shareholder with Kohner, Mann & Kailas, S.C. Our firm was retained on July 13, 2020, to represent non-party Elmerina Brooks (“Ms. Brooks”) solely in connection with the subpoenas served on Ms. Brooks in this action by Plaintiffs. I base this Declaration on personal knowledge, and submit it in support of Ms. Brooks’ Motion to Quash and Motion for a Protective Order.

2. At 7:02 p.m. eastern on June 29, 2020, Plaintiffs sent me an email indicating they intended to serve two subpoenas on Ms. Brooks. Attached to this Declaration as Exhibit 1 is a true and correct copy of the subpoenas.

3. Ms. Brooks is a senior citizen and an “at-risk” person with respect to Covid-19. Accordingly, I was asked to waive personal service of the subpoenas on Ms. Brooks’ behalf, which I communicated to Plaintiffs on June 30, 2020, and Plaintiffs confirmed on that date.

4. A true and correct copy of selected correspondence I had with Plaintiffs’ counsel concerning the parties’ efforts at conciliation on July 6 and 7, 2020, is attached to this Declaration as Exhibit 2. As of the date of this filing, Plaintiffs have not provided any response to any of the

issues I raised in my July 7 email, nor have they responded to my offer to participate in a meet and confer conference.

5. Only July 12, 2020, I renewed my July 7 offer to participate in a meet and confer conference with Plaintiffs with respect to Ms. Brooks' subpoenas. As of the time of this filing, Plaintiffs have not responded to either my July 7 or July 12 offers.

6. Our firm was retained by Ms. Brooks, with respect only to the subpoenas, on July 13, 2020. One reason the retention process took longer than normal is that I wanted to explain to Ms. Brooks, in detail, the possibility that a conflict of interest may arise between our representation of Defendant Steven Brooks and non-party Ms. Brooks (who is Steven Brooks' mother), the possible consequences of such a conflict, and to give Ms. Brooks time to consider alternative counsel to avoid that potential issue.

7. A true and correct copy of the transcript of the May 19, 2020 telephone call with the Court concerning Plaintiffs' *ex parte* emergency motion for a temporary restraining order is attached to this Declaration as Exhibit 3.

8. Plaintiffs to date have served four third-party subpoenas during expedited discovery: one on lender BMO Harris Bank, N.A., one on Convergen WI's IT vendor, Heartland Business Systems, LLC, and two on Ms. Brooks.

9. Attached to this Declaration as Exhibit 4 is a true and correct copy of Specially Appearing Defendants' Objections and Responses to Plaintiffs' First Set of Interrogatories, dated June 11, 2020.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 13th day of July, 2020.

/s Ryan M. Billings
Ryan M. Billings